

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL A. GAMBLER	:	
Petitioner,	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 10-1826
FRANKLIN J. TENNIS, et al.	:	
Respondents	:	

**ORDER**

AND NOW, this 10th day of December, 2010, upon consideration of the Petition for the Writ of Habeas Corpus (the "Petition") (Doc. No. 1), the Revised Petition for Writ of Habeas Corpus (Doc. No. 3) and the Report and Recommendation filed by United States Magistrate Judge Timothy R. Rice (Doc. No. 12), and after an independent review of the pertinent record, it is ORDERED that:

1. The Report and Recommendation of Magistrate Judge Rice is APPROVED and ADOPTED. The Court agrees with the Report and Recommendation that Petitioner has procedurally defaulted on his claims and has not met his burden of establishing circumstances to excuse this default. Petitioner has not satisfied any of the statutory exceptions to the federal limitations period set forth in 28 U.S.C. §2244(d)(1)(B)-(D). Nor has Petitioner established any basis that would satisfy the criteria for disregarding the federal limitations period pursuant to the doctrine of equitable tolling. See Holland v. Florida, 130 S. Ct. 2549, 2562 (2010) (quoting Pace v. DiGuglielmo, 544 U.S. 408, 418 (2005)).
2. The Petition for the Writ of Habeas Corpus (Doc. No. 1) filed pursuant to 28 U.S.C. § 2254 is DENIED and DISMISSED without an evidentiary hearing.
3. All outstanding motions are DENIED as moot.

4. Petitioner has neither shown a denial of a constitutional right, nor established that reasonable jurists would disagree with this Court's disposition of his claims.  
Consequently, a certificate of appealability is DENIED.
5. The Clerk's Office shall close this case.

BY THE COURT:

  
JOEL H. SLOMSKY, J.